

Indiana Section 108 Loan Guarantee Program

**Indiana Office of Community and Rural
Affairs**

**Indiana Housing and Community
Development Authority**

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Section I – Program Guidelines

A. Introduction

The Indiana Office of Community Rural Affairs (OCRA) and the Indiana Housing and Community Development Authority (IHCDA) in cooperation with the U.S. Department of Housing and Urban Development (HUD) have agreed to undertake a program for the use of Section 108 loan guarantee funds by non-federal entitlement communities in the State of Indiana. Indiana receives an annual federal entitlement under the Community Development Block Grant (CDBG) Program. In accordance with the federal regulations found in 24 CFR 570, Subpart M, a state may develop procedures and requirements to assist non-federal entitlement public entities to apply for loans from the HUD Section 108 Loan Guarantee Program. The state proposes to assist public entities in applying for Section 108 loan funds through a new initiative. The state will provide up to one hundred percent (100%) of the loan guarantee for the loan repayment of applications funded through the loan guarantee program.

Purpose:

The purpose of the Indiana Section 108 Loan Guarantee Program is to establish a source of loan funds for local communities to access for community and economic development activities. The state has prepared these guidelines to expedite the approval process for Section 108 loan guarantee funds and to provide communities with an additional source of funds to address their goals and objectives for community and economic development.

B. Eligible Applicants

The following types of applicants are eligible to apply for funding through the state's Section 108 Loan Guarantee Program:

- **Non-entitlement:** A unit of general local government that is not a recipient of direct federal funds from HUD under the Community Development Block Grant Program.

NOTE:

These guidelines are not applicable to federal entitlement communities and urban counties that receive CDBG funds directly from HUD. These communities will apply directly to HUD for Section 108 loan funds.

C. Eligible Activities

The following projects are eligible for funding under the Indiana Section 108 Loan Guarantee Program:

1. Economic Development Projects

Examples of economic development projects include loans made by the public entity to a for-profit business, construction or reconstruction of infrastructure to support a business, or implementation of a redevelopment project.

a. **Business Loans** – funding provided to a local firm for expansion of its operations. Funds may be used for construction, purchase of machinery and equipment, gap financing, as a credit enhancement, etc. A project of this type would normally include other sources of funding and capital invested by the company. The project must create new job opportunities which would be filled by a minimum of 51% low-and-moderate income persons. The Section 108 loan would be repaid by the company from cash flow from the increase in revenue from operations.

b. **Infrastructure Improvements** – for the construction or reconstruction of access roads, the extension of public utilities, installation of a railroad spur line, etc. to serve a private business or industry. The project should create new job opportunities which would be filled by a minimum of 51% low-and-moderate income persons. The Section 108 loan would be repaid by the company from cash flow from the increase in revenue from operations.

c. **Redevelopment Project** – funds would be used for the acquisition, relocation, and clearance of a site(s) for redevelopment purposes. The land would be sold to public or private redevelopers and the funds from the sale of the land would be used to pay off the Section 108 loan, along with supplemental funding such as tax incremental financing (T.I.F.), etc. The project must benefit low-and-moderate income persons through the creation of new job opportunities.

2. Housing Projects

Examples of housing projects that are eligible for Section 108 loans include rehabilitation, acquisition of sites for new development, homeownership, etc. All housing type activities must be affordable to low-and-moderate income persons.

a. **Bridge Loans** – funds may be used to provide interim financing for construction of single family houses, or rental housing, by a non-profit housing organization. Sources of permanent financing could be through a state housing development agency, low-income housing tax credits, or private banks. The Section 108 loan could be used as a “bridge” loan for construction financing. Repayment of the Section 108 loan would be made at the time when the permanent financing is in place, such as from sales of individual houses.

b. **Housing Rehabilitation** – funds may be used to establish a loan pool for homeowners or landlords to borrow from at low interest rates with long term repayment terms. The homeowners or tenants must be low- to moderate-income. Repayment of the Section 108 loan could be from the individual monthly loan repayments by the homeowners/landlords and could be supplemented with CDBG funds on an annual basis.

c. **Homeownership** – funds could be used to establish a first time homebuyer program at favorable interest rates and repaid over a twenty year period. The development of the housing would be done by a non-profit housing agency and the houses would be sold to low- and moderate-income families. Repayment would be from the homebuyers which could be supplemented with CDBG funds.

3. Community Development Projects

Large scale public facilities and infrastructure type projects may be undertaken with Section 108 loan funds. These projects may be beyond the annual budget limitations of communities. These projects must principally benefit the low-and-moderate income population of the area in which they are intended to serve.

a. **Public Facilities** – funds may be used for the expansion of an existing facility or the development of a new facility. The facility must principally benefit low-and-moderate income persons. Repayment of the Section 108 loan could be from general revenue funds, facility fees, usage fees, etc.

b. **Streetscape Improvements** – funds may be used to provide loans/grants for building façade improvements, streetscape work such as tree planting, walks, curbs, street furniture, signage, street reconstruction, etc. The area must serve principally low-and-moderate income persons, or be part of a redevelopment project to prevent or eliminate slums and blight. Section 108 loan repayment could be from a special tax levy on the property owners through the establishment of a neighborhood improvement district or a business improvement district (B.I.D.).

4. Other

Other eligible projects may be developed consistent with the list of activities eligible under the Section 108 Loan Program found at 24 CFR 570.703. Such other projects are subject to the review and approval of OCRA and IHCDA.

D. Priorities

The State of Indiana proposes to utilize the Section 108 loan funds for communities to access for economic development, community development and affordable housing activities. The state will only assign priorities to projects when the amount of Section 108 loan commitment authority is reduced to the point that the available loan authority is not sufficient to allow approval of all eligible applications. The following are activities that will be considered priorities when allocating limited Section 108 resources:

1. Job Creation

It is a goal of the State of Indiana Section 108 Loan Guarantee Program to create quality permanent jobs as a result of the financial assistance provided. The maximum amount of Section 108 loan funds for every one permanent full-time job equivalent (FTJE) to be created is at the sole discretion of the Office of Community and Rural Affairs.

2. National Objective

The Section 108 Loan Program requires that projects must meet a national objective. Priority consideration will be given to projects that provide a benefit to low-and-moderate income persons. However, this does not preclude worthwhile projects from being funded under the National Objective of removal of slums and blight. Priority for this National Objective will be given to activities necessary to carry out a redevelopment project. There are several ways to meet the criteria of low-and-moderate income benefit as shown in Appendix B attached. If jobs are being created as a result of the project, the jobs could be made available to low-and-moderate income persons, which would meet the National Objective.

3. Infrastructure

A project that finances the installation or reconstruction of critical infrastructure is also a priority activity. This could be related to the redevelopment or reuse of property or in support of an economic development purpose.

4. Housing

Priority will also be given to proposed projects that involve the rehabilitation of existing housing and/or the construction of housing by non-profit organizations for homeownership. The state encourages the development of affordable housing for low-and-moderate income home buyers.

E. Loan Commitments

1. Minimum/Maximum Loan Amounts

The total maximum amount of Section 108 loan financial assistance that an eligible public entity may receive is limited to \$7,000,000. A minimum loan request of \$1,000,000 is required for the Indiana Section 108 Loan Guarantee Program.

2. Repayment

It is anticipated that the primary source of repayment of the Section 108 loan amount will be from the projected cash flow as a result of the project, or from other sources of revenue that are pledged specifically for repayment of the Section 108 loan.

3. Other Forms of Repayment

As a secondary source of repayment, the State will require additional security to be pledged for loan repayment.

4. Repayment Period

The maximum term of the Section 108 loan shall not exceed twenty (20) years.

5. CDBG Funds Pledged

Federal statute requires that the State of Indiana pledge its CDBG funds as a source of repayment in the event of loan default.

6. Additional Security

The public entity shall furnish, at the discretion of HUD, such other security as may be deemed appropriate by HUD in making such guarantees. Additional security, over and above the pledge of CDBG funds, shall be required for all loans with repayment periods of ten (10) years or longer. Examples of such additional security that HUD may require include:

- a. Program Income
- b. Liens on real and personal property
- c. Debt Service Reserves
- d. Increments in local tax receipts generated by activities carried out with Section 108 loan funds.

The HUD Section 108 loan may not be less than a second lien position on any real and personal property. The debt obligations under the Section 108 Loan Guarantee Program shall not constitute a general obligation of any public entity secured by its full faith and credit.

Section II – Application Procedure

A. General Information

1. Application Dates

Applications may be submitted at any time for the Indiana Section 108 Loan Guarantee Program.

2. Application Form

Non-entitlement public entities must utilize the Section 108 Loan Guarantee Program Application which can be found on the OCRA and IHCD websites (www.in.gov/ocra and www.in.gov/ihcda).

3. Questions

For additional information or questions, applicants may contact the Community Liaison for their region. A map with contact information is available at: www.in.gov/ocra.

B. Citizen Participation

1. Citizen Participation Plan

A citizen participation plan must be developed and followed by the public entity. The plan must be completed and available before the application is submitted to HUD. The plan must set forth the public entity's policies and procedures for citizen's involvement.

2. Public Hearings

Holding a minimum of two public hearings, each at a different stage of the public entity's Section 108 loan application process, will enable citizens the opportunity to present their views and assist in formulating proposals to address the community and economic development needs of the public entity. Reasonable notice of the hearings must be provided and the hearing must be held at times and locations convenient to potential or actual beneficiaries, with accommodations made for persons with disabilities. The community must meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to attend the public hearing.

3. Advertising Requirements

At a minimum, two public hearings must be held. Separate legal notices shall be published in a newspaper of general circulation in the area where the proposed project is located. The legal ad for the first public hearing must contain the amount of Section 108 loan funds available, types of activities that may be undertaken with the guaranteed loan funds, the national objectives that must be met by each activity, and the time, date, and place where the public hearing will be held. Refer to Appendix G for sample notices. The second public hearing notice must state: the public entity's proposed use of guaranteed loan funds; the amount of funds that will benefit low- and moderate-income persons; a statement if the proposed activities will likely result in displacement and the public entity's plans for minimizing the displacement of persons as a result of its proposed activities; a description of the proposed project; and, the public benefits anticipated.

4. Governing Body Approval

After the last public hearing, the governing body of the public entity that proposes to apply for a Section 108 loan guarantee, must approve the application and authorize its submission to OCRA. The governing body must authorize the chief elected official or other designee to sign the

application, enter into contracts and agreements, and provide the assurance and certifications required for the use of a Section 108 loan. See Appendix F for a sample resolution of the governing body.

C. Application Process

The application format for submitting a request for a Section 108 loan guarantee is as follows:

1. Project Proposal

Eligible public entities must submit a project proposal as a requirement for the Indiana Section 108 Loan Program. The proposal will be submitted using the Section 108 Loan Guarantee Proposal Form. Applicants should carefully review the instructions contained in the proposal packet and submit the requested documentation in the outline format. In the narrative include the community development objectives the public entity proposes to carry out with the guaranteed loan funds; a description of the proposed project activities to be undertaken, including the specific provision of 570.703 under which it is eligible and the CDBG national objective to be met, location of the project, projected time table, total project cost, sources and commitments of all funds, and any other pertinent information or documentation to support an application for a Section 108 loan guarantee. The proposal must also describe where citizens may obtain additional information about proposed activities.

2. Site Visit

A site visit to discuss the potential project and the need for Section 108 loan funds will be required. Eligible public entities are encouraged to request a site visit with OCRA/IHCDA staff as early in the process as possible. Attendees must include the eligible public entity, the for-profit business, non-profit developer, for-profit developer, and any other parties to the Section 108 Loan Guarantee.

3. Review and Approval

OCRA staff will review each application submitted for compliance with the state and federal threshold requirements for a Section 108 loan guarantee. In particular, the following criteria will be used to evaluate each preliminary application:

- a. Eligibility of proposed use of Section 108 loan funds in accordance with the CDBG Regulations found in 24 CFR 570.703. (See Section I.D. "Eligible Activities" found in these guidelines)
- b. Compliance with the use of CDBG funds for eligible activities under 24 CFR 570.201 thru 570.204. (See Section I.D. "Eligible Activities" found in these guidelines)
- c. Meeting the criteria for a national objective under 24 CFR 570.208 (See Appendix B)
- d. Compliance with the public benefit requirements found in 24 CFR 570.209. (See Appendix C)
- e. Review of the need for a Section 108 loan and previous efforts made to obtain financing for the activities without the use of the loan guarantee. The applicant may be invited to meet with staff to discuss the project and address any questions. OCRA staff will advise public entity that it will recommend an application for a Section 108 loan guarantee to be submitted directly to HUD or reject the application as ineligible under the Indiana Section 108 Loan Program Guidelines and/or federal regulations. OCRA staff can also recommend a lower amount for the Section 108 loan based on the ability of public entities to repay the loan, other sources of financing, or the overall economic feasibility of the project. After OCRA has completed the review of the application and has made a decision on the amount of the Section 108 loan, compliance with the national objectives, and eligible use of Section 108 loan funds, the department will notify the

public entity and request submission of a final application for funds under the Indiana Section 108 Loan Guarantee Program.

The State of Indiana will review the final application submitted for a Section 108 loan guarantee. OCRA may disapprove, or reduce the amount of the loan guarantee assistance for any of the following reasons when the department determines that the guarantee constitutes an unacceptable financial risk. Factors that will be considered in assessing financial risk include, but are not limited to, the following:

- a. The length of the proposed repayment period;
- b. The ratio of expected annual debt service requirements to expected annual grant amount;
- c. The likelihood that the public entity or OCRA will continue to receive grant assistance under the CDBG Program during the proposed repayment period;
- d. The public entity's ability to furnish adequate security; and
- e. The amount of income the proposed activities are reasonably estimated to contribute towards repayment of the guaranteed loan. In addition, the department may disapprove the Section 108 loan request based on any of the following factors:
 - a. The requested loan amount exceeds any of the maximum limitations.
 - b. Funds are not available in the amount requested.
 - c. The previous performance of the public entity, and/or its designated public agency, is unacceptable.
 - d. Activities to be undertaken with the guaranteed loan funds are not eligible.
 - e. Does not meet the public benefit test.
 - f. Activities to be undertaken with the guaranteed loan funds do not meet the criteria for compliance with one of the national objectives of the Housing and Community Development Act. OCRA reserves the right to not approve an application based on any other combination of factors and will notify the public entity in writing that the loan guarantee request has been approved, reduced or disapproved. If the request is reduced or disapproved, the public entity shall be informed of the specific reasons for reduction or disapproval.

If the request is approved, OCRA will notify HUD. OCRA will allocate funds from its Section 108 loan fund for all approved projects. HUD shall issue an offer of commitment to guarantee debt obligations of the borrower identified in the application subject to compliance with program requirements for securing and issuing debt obligations, the conditions for release of funds, and such other conditions as HUD may specify in the commitment documents in a particular case.

4. Final Application

Once the public entity has held the public hearing and published the proposed application the public entity must consider any comments received and if it deems appropriate, modify the proposed application. The final application must be made available to the public.

The final application will contain the following elements and documentation.

- a. A revised Application Form, if the financing has changed since the preliminary application was submitted.
- b. A project narrative providing the location of the proposed project, a project description, time schedule, and other pertinent information to fully describe the use of Section 108 loan funds.
- c. The proposed use of Section 108 loan funds and compliance with the local community development objectives.
- d. Statements on: the eligibility of the proposed activities to be financed with Section 108 loan funds in accordance with the federal CDBG regulations; the national objective to be met; the public benefit standard to be applied; potential benefit to low-and moderate-income persons;

conformance with the community's or region's comprehensive plan(s); the financial feasibility of the proposed project; the "but-for" rationale; and leveraging of Section 108 loan funds with other public and private funds.

e. A proposed repayment schedule with the term of the loan, loan amount, anticipated interest rate, annual payment amount, and sources of funds identified to repay the Section 108 loan.

f. Signed copies of the federal certifications required for a Section 108 loan guarantee.

g. A signed original of the resolution of the governing body approving the application and authorizing the submittal.

h. Evidence of compliance with the citizens participation requirements.

5. National Objectives

Under the federal guidelines at least 70% of the aggregate use of CDBG grant funds received by a state, the Section 108 loan guarantee funds, and program income funds for a three-consecutive-year period, must be for activities that benefit low- and moderate-income persons. Therefore, OCRA will give priority to applications for the use of a Section 108 loan guarantee which provide a benefit to low- and moderate-income persons. Projects that meet the slum and blight National Objective will also be eligible for Section 108 Loan funds.

6. Budget/Financial Plan

In the final application, the public entity must provide a budget/financing plan that identifies all sources of funds to undertake the project. Funds shall be identified as to source, amount, whether a loan or grant, terms of the loan (if applicable), repayment provisions (if applicable), security position, and whether the loan or grant is committed or pending. In addition to the sources of funding, the public entity must also provide a proposed use of funds. All project costs should be identified and the justified in a narrative attached to the budget.

7. Repayment Schedule

In accordance with the federal guidelines, all applicants shall prepare a repayment schedule for the proposed Section 108 Loan. The repayment schedule should also include a narrative on the sources of repayment other than CDBG funds. If the source of repayment is from net income from the project or from the proposed development entity, a pro-forma should be prepared for the length of the term of the Section 108 loan. See Appendix D for a sample "Repayment Schedule" format.

8. Citizen Participation

The public entity shall comply with the citizen participation requirements contained in these guidelines. The requirements are listed in Section II B of these guidelines.

9. Certifications

In accordance with the federal regulations for the Section 108 Loan Guarantee Program, the following certifications are required:

a. Public Entity Certification

b. Certification Regarding Debarment, Suspension and other Responsibility Matters – Primary Covered Transition

c. Certification of Efforts to Obtain Other Financing

d. Certification Regarding Drug Free Workplace Requirements

e. Statement Regarding Lobbying

f. Certification of Legal Authority to Pledge Grant

g. State Certifications Related to Non-entitlement Public Entities.

Attached in Appendix E are copies of these certifications.

10. Resolutions

The governing body of the public entity must approve the application for a Section 108 loan and authorize the submission of the application to OCRA. See sample resolution form is attached in Appendix F.

E. Financing

1. Underwriting Standards

OCRA and IHCDA have developed separate underwriting standards that it will utilize to determine the economic feasibility of each proposed Section 108 loan guarantee application.

The basic underwriting position of the Indiana Section 108 Loan Guarantee Program is that there should be two different sources to repay the loan. The Section 108 loan guarantee is based on a non-confiscatory repayment policy; therefore cash flow from operations is the primary source of repayment. The secondary source is the collateral which secures the loan. A company is considered a good credit risk when the existing cash flow of the company exceeds the proposed debt service and all the evidence and trends suggest that cash flow will continue to exceed the proposed debt service. If the company can demonstrate that its cash flow from operations generates enough cash to repay the proposed borrowings, the Section 108 loan should be approved. If a company fails to achieve this test, it does not mean that the business is not creditworthy. Instead, in order to repay the proposed obligation, the company's sales must grow and profits must increase. Failure to grow will mean that the borrower will have difficulty repaying the loan from cash flow in a timely manner. In order to assess the ability of the company to grow and increase profits, the company's cash flow projections will be evaluated. The projected cash flow, based upon a reasonable and achievable projected Profit and Loss Statement, must be adequate to repay the proposed debt service. In addition to evaluating the reasonableness and attainability of the projected cash flow, the capability of the company's principals will also be taken into consideration. The principals must demonstrate adequate organizational skills to be able to generate and manage the necessary growth and to increase the profits to the level at which cash flow will be sufficient to repay the proposed debt. If a company fails to achieve the cash flow test and the public entity feels that providing the requested

Section 108 loan would be vital to the survival of the enterprise and as a result, a considerable number of existing jobs would be saved, OCRA will look for a surrogate or alternative repayment means. A proposed surrogate repayment could be tangible and identifiable sources of repayment with a high degree of reliability. Potential sources of repayment could be standby letters of credit from a reputable third party, outside guarantees, outside income streams, or outside collateral. The collateral of the project and the company cannot serve as a primary means of repayment, because it already is being relied upon as the secondary sources of repayment if the primary means fails. As previously mentioned, every loan must have two potential sources of repayment. The first source is usually cash flow or project reserves. The second source is collateral. Within reason, the stronger the first source, less concern is needed about the second source. In all cases, however, collateral must be adequate to secure the obligation. HUD normally recommends that communities secure a loan with a general security agreement, a perfected lien on all assets being pledged and in some instances the personal guarantees of all principals who own part of the company or play a key role in the management of the company may also be considered. Life insurance on a key person is also recommended. As a last resort, CDBG funds will be used to repay the loan in the case of default.

2. Documentation Required

In order to assist the OCRA in performing its financial underwriting of the proposed Section 108 loan, it will need, as a minimum, the following documentation:

- a. 3-year audited financial statements for the company or the principals of a start-up business.
- b. Statement of projected cash flow for the life of the loan.
- c. Credit reports of the company of the principals.
- d. Personal guarantees
- e. Business plan for a start-up firm or expansion of an existing firm.
- f. Narrative statement on the experience of the principals or key management personnel.
- g. Market study for housing projects.

3. Loan Initiation Fee

A loan initiation fee of one-quarter (1/4) of one percent (1%) will be applicable for economic development type projects and one-eighth (1/8) of one percent (1%) will be applicable for housing and community development type projects.

4. Interim Financing

Section 108 loan obligations are financed through underwritten public offerings. The public offerings may be made once a year. Financing between public offerings is provided through an interim lending facility authorized by HUD. Interest rates on interim borrowing are priced at the 3 month London Interbank Offered (LIBO) rate plus 20 basis points (0.2%). HUD arranges the interim financing for the Section 108 loan applicant.

5. Permanent Financing

HUD will provide the permanent financing based on a public offering which usually occurs in the late summer of each year. Permanent financing is pegged to the yields on the U.S. Treasury obligations of similar maturity to the principal amount. A small additional basis point spread will be added to the Treasury yield, depending on the maturity date of the Section 108 loan. This will determine the actual fixed rate for the Section 108 loan guarantee.

F. Reporting Procedures

1. Meeting National Objectives

The primary national objective to be used for the Section 108 Loan Guarantee Program is – “benefiting low- and moderate-income persons.” There are four (4) ways to benefit low-and moderate-income persons:

- a. **Area Benefit Activity** – where the benefits of the activity are available to all the residents in a particular area, where at least 51% of the area’s residents are low-and moderate-income persons.
- b. **Limited Clientele Activity** – where the activity benefits a limited clientele, at least 51% of whom are low- or moderate-income persons. The activity could benefit a clientele who are generally assumed to be principally low-and moderate-income. (The following categories of persons are presumed to be low moderate income: abused children; battered spouses; elderly persons; adults meeting the Bureau of Census’ Current Population Reports definition of “severely disabled; homeless persons; illiterate adults; persons living with AIDS; and, migrant farm workers.) The activity could have an income eligibility requirement which limits the activity exclusively to low-and moderate-income persons. Or, the activity could be of such a nature or be in such a location that it may be concluded that the activity’s clientele will primarily be low- and moderate-income persons.

c. **Housing Activity** – where the activity is to provide or improve permanent housing which will be occupied by low- and moderate-income households.

d. **Job Creation or Retention Activities** – which is designed to create or retain permanent jobs where at least 51% of the jobs (computed on a full time equivalent basis), involve the employment of low- and moderate-income persons. For an activity that creates jobs, at least 51% of the jobs will be held by, or will be available to, low- and moderate-income persons.

2. Tracking Job Creations

The public entity must monitor the jobs created from the employment records and the method of hiring that the company used to fill the positions. For purposes of determining whether a job is held by a low- or moderate-income person, the person may be presumed to be a low-or-moderate income persons if:

- a. he/she signs an OCRA approved self-certification form;
- b. he/she resides in a census tract that has a poverty rate of at least 20 percent; or
- c. he/she resides in a census tract that has at least 70% of its residents who are low-and moderate-income.

In addition, if the business to be assisted with a Section 108 loan is located in either a 20% poverty census tract or 70% of its residents are low-and-moderate income all of the jobs to be created will be assumed to benefit low-and moderate-income persons.

3. Public Benefit

The proposed use of Section 108 loan funds must provide a minimum level of public benefit. The activity must:

- a. Create or retain as a minimum, at least one full-time equivalent permanent job per \$20,000 of Section 108 loan funds, or
- b. Provide goods or services to residents of the area, such that as a minimum at least one low-and moderate-income resident of the area benefits from each \$350 of Section 108 loan funds expended.

G. Sanctions

1. Repayment/Default

The public entity that receives Section 108 loan funds shall enter into a contract with HUD. Should the business or industry that receives Section 108 loan funds default on its payments, HUD will hold the State of Indiana responsible for the repayment of the debt obligations. OCRA will require the public entity to foreclose on the note and if sufficient funds are not available to repay the loan – then what do we say here?

2. Performance Deficiencies

Should the actual use of Section 108 loan funds not comply with the federal CDBG regulations of 24 CFR Part 570, HUD may take one or more actions against the public entity. Remedial actions will be imposed if the Section 108 loan funds do not meet the public benefit requirements or a national objective. OCRA will be responsible to monitor performance of the Section 108 loan recipients. If deficiencies are found, the following actions may be undertaken:

- a. A warning letter will be issued advising the public entity of the deficiency and putting the public entity on notice that additional action will be taken if the deficiency is not corrected.

- b. Request the public entity to submit a proposal for corrective action which includes a timetable, responsible parties, and other actions that will be undertaken to prevent a continuance of the deficiency, mitigation of the adverse effects, and ways to prevent a recurrence of the deficiency.
- c. Advise the public entity to suspend disbursement of Section 108 loan funds.
- d. Advise the public entity to reimburse the program for any amounts improperly expended.
- e. Institute collection procedures.

Section III – Appendices

Project/Activity Budget

Public Entity: _____

Project Name: _____

Project Location: _____

[illegible]

Appendix B

24 CFR 570.208 Criteria for National Objectives

The following criteria shall be used to determine whether a CDBG-assisted activity complies with one or more of the national objectives as required under 570.200(a)(2):

A. *Activities benefiting low- and moderate-income persons.* Activities meeting the criteria in paragraph (a)(1), (2), (3), or (4) of this section as applicable, will be considered to benefit low- and moderate-income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. (The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate-income persons to the exclusion of low- income persons.)

1. Area benefit activities.

- i. An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low- and moderate-income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.
- ii. For metropolitan cities and urban counties, (NOT APPLICABLE)
- iii. An activity to develop, establish, and operate for up to two years after the establishment of a uniform emergency telephone number system (NOT APPLICABLE)
- iv. An activity for which the assistance to a public improvement that provides benefits to all the residents of an area is limited to paying special assessments (as defined in 570.200(c)) levied against residential properties owned and occupied by persons of low and moderate income.
- v. For purposes of determining qualification under this criterion, activities of the same type that serve different areas will be considered separately on the basis of their individual service area.
- vi. In determining whether there is a sufficiently large percentage of low- and moderate-income persons residing in the area served by an activity to qualify under paragraphs (a)(1)(i), (ii), or (vii) of this section, the most recently available decennial census information must be used to the fullest extent feasible, together with the Section 8 income limits that would have applied at the time the income information was collected by the Census Bureau. Recipients that believe that the census data does not reflect current relative income levels in an area, or where census boundaries do not coincide sufficiently well with the service area of an activity, may conduct (or have conducted) a current survey of the residents of the area to determine the percent of such persons that are low and moderate income. HUD will accept information obtained through such surveys, to be used in lieu of the decennial census data, where it determines that the survey was conducted in such a manner that the results meet standards of statistical reliability that are comparable to that of the decennial census data for areas of similar size. Where there is substantial evidence that provides a clear basis to believe that the use of the decennial census data would substantially overstate the proportion of persons residing there that are low and moderate income, HUD may require that the recipient rebut such evidence in order to demonstrate compliance with section 105(c)(2) of the Act.
- vii. Activities meeting the requirements of paragraph (d)(5)(i) of this section may be considered to qualify under this paragraph, provided that the area covered by the strategy is either a Federally-designated Empowerment Zone or Enterprise Community or primarily residential and contains a percentage of low- and moderate-income residents that is no less than the percentage computed by HUD pursuant to paragraph (a)(1)(ii) of this section or 70 percent, whichever is less, but in no event less than 51 percent. Activities meeting the requirements of paragraph (d)(6)(i) of this section may also be considered to qualify under paragraph (a)(1) of this section.

2. Limited clientele activities.

i. An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. (The following kinds of activities may not qualify under paragraph (a)(2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low- and moderate-income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2)(iv) of this section.) To qualify under paragraph (a)(2) of this section, the activity must meet one of the following tests:

A. Benefit a clientele who are generally presumed to be principally low- and moderate-income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

B. Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit; or

C. Have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons; or

D. Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low- and moderate- income persons.

ii. An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled" will be presumed to qualify under this criterion if it is restricted, to the extent practicable, to the removal of such barriers by assisting:

A. The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under paragraph (a)(1) of this section;

B. The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under paragraph (a)(1) or (4) of this section; or

C. The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under paragraph (a)(3) of this section.

iii. A micro enterprise assistance activity carried out in accordance with the provisions of 570.201(o) with respect to those owners of micro enterprises and persons developing micro enterprises assisted under the activity during each program year who are low- and moderate-income persons. For purposes of this paragraph, persons determined to be low and moderate income may be presumed to continue to qualify as such for up to a three-year period.

iv. An activity designed to provide job training and placement and/or other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, in which the percentage of low- and moderate-income persons assisted is less than 51 percent may qualify under this paragraph in the following limited circumstance:

A. In such cases where such training or provision of supportive services assists business(es), the only use of CDBG assistance for the project is to provide the job training and/or supportive services; and

B. The proportion of the total cost of the project borne by CDBG funds is no greater than the proportion of the total number of persons assisted who are low or moderate income.

3. Housing activities. An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the recipient, a sub recipient, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. Where housing activities being assisted meet the requirements of 570.208(d)(5)(ii) or (d)(6)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low- and moderate-income households must be at affordable rents to qualify under this criterion. The recipient shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

- i. When less than 51 percent of the units in a structure will be occupied by low- and moderate-income households, CDBG assistance may be provided in the following limited circumstances:
 - A. The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project;
 - B. Not less than 20 percent of the units will be occupied by low- and moderate-income households at affordable rents; and
 - C. The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by low- and moderate-income households.
- ii. When CDBG funds are used to assist rehabilitation eligible under 570.202(b)(9) or (10) in direct support of the recipient's Rental Rehabilitation program authorized under 24 CFR part 511, such funds shall be considered to benefit low- and moderate-income persons where not less than 51 percent of the units assisted, or to be assisted, by the recipient's Rental Rehabilitation program overall are for low- and moderate-income persons.
- iii. When CDBG funds are used for housing services eligible under 570.201(k), such funds shall be considered to benefit low- and moderate-income persons if the housing units for which the services are provided are HOME-assisted and the requirements at 24 CFR 92.252 or 92.254 are met.

4. Job creation or retention activities. An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low-and-moderate income persons. To qualify under this paragraph, the activity must meet the following criteria:

- i. For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low- and moderate-income persons.
- ii. For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided:
 - A. The job is known to be held by a low- or moderate-income person; or
 - B. The job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low- or moderate-income person upon turnover.

iii. Jobs that are not held or filled by a low- or moderate-income person may be considered to be available to low- and moderate-income persons for these purposes only if:

A. Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

B. The recipient and the assisted business take actions to ensure that low- and moderate-income persons receive first consideration for filling such jobs.

iv. For purposes of determining whether a job is held by or made available to a low- or moderate-income person, the person may be presumed to be a low- or moderate-income person if:

A. He/she resides within a census tract (or block numbering area) that either:

1. Meets the requirements of paragraph (a)(4)(v) of this section; or

2. Has at least 70 percent of its residents who are low- and moderate-income persons; or

B. The assisted business is located within a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within that census tract.

v. A census tract (or block numbering area) qualifies for the presumptions permitted under paragraphs

(a)(4)(iv)(A)(1) and (B) of this section if it is either part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following criteria:

A. It has a poverty rate of at least 20 percent as determined by the most recently available decennial census information;

B. It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and

C. It evidences pervasive poverty and general distress by meeting at least one of the following standards:

1. All block groups in the census tract have poverty rates of at least 20 percent;

2. The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

3. Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

vi. As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except:

A. In certain cases such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses which locate on the property, provided such businesses are not otherwise assisted by CDBG funds.

B. Where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses exclusively from non- CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during each program year.

C. Where CDBG funds are used by a recipient or sub recipient to provide technical assistance to businesses, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving technical assistance during each program year.

D. Where CDBG funds are used for activities meeting the criteria listed at 570.209(b)(2)(v), this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

E. Where CDBG funds are used by a Community Development Financial Institution to carry out activities for the purpose of creating or retaining jobs, this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

F. Where CDBG funds are used for public facilities or improvements which will result in the creation or retention of jobs by more than one business, this requirement may be met by aggregating the jobs created or retained by all such businesses as a result of the public facility or improvement.

1. Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other businesses might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDBG funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.

2. In any case where the cost per job to be created or retained (as determined under paragraph (a)(4)(vi)(F)(1) of this section) is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. This aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the facility/improvement between the date the recipient identifies the activity in its action plan under part 91 of this title and the date one year after the physical completion of the facility/improvement. In addition, the assisted activity must comply with the public benefit standards at 570.209(b).

B. Activities which aid in the prevention or elimination of slums or blight. Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

1. Activities to address slums or blight on an area basis. An activity will be considered to address prevention or elimination of slums or blight in an area if:

- i. The area, delineated by the recipient, meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;
- ii. Throughout the area there is a substantial number of deteriorated or deteriorating buildings or the public improvements are in a general state of deterioration;
- iii. Documentation is maintained by the recipient on the boundaries of the area and the condition which qualified the area at the time of its designation; and
- iv. The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area. Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard under local definition before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is undertaken. At a minimum, the local definition for this purpose must be such that buildings that it would render substandard would also fail to meet the housing quality standards for the Section 8 Housing Assistance Payments Program-Existing Housing (24 CFR 882.109).

2. Activities to address slums or blight on a spot basis. Acquisition, clearance, relocation, historic preservation and building rehabilitation activities which eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area will meet this

objective. Under this criterion, rehabilitation is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.

3. Activities to address slums or blight in an urban renewal area. An activity will be considered to address prevention or elimination of slums or blight in an urban renewal area if the activity is:

- i. Located within an urban renewal project area or Neighborhood Development Program (NDP) action area; i.e., an area in which funded activities were authorized under an urban renewal Loan and Grant Agreement or an annual NDP Funding Agreement, pursuant to Title I of the Housing Act of 1949; and
- ii. Necessary to complete the urban renewal plan, as then in effect, including initial land redevelopment permitted by the plan.

NOTE: Despite the restrictions in (b)(1) and (2) of this section, any rehabilitation activity which benefits low- and moderate-income persons pursuant to paragraph (a)(3) of this section can be undertaken without regard to the area in which it is located or the extent or nature of rehabilitation assisted.

C. Activities designed to meet community development needs having a particular urgency. In the absence of substantial evidence to the contrary, an activity will be considered to address this objective if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the recipient.

D. Additional criteria.

1. Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses a national objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance which will eliminate specific conditions of blight or physical decay, the clearance activity shall be considered the actual use of the property. However, any subsequent use or disposition of the cleared property shall be treated as a "change of use" under 570.505.
2. Where the assisted activity is relocation assistance that the recipient is required to provide, such relocation assistance shall be considered to address the same national objective as is addressed by the displacing activity. Where the relocation assistance is voluntary on the part of the grantee the recipient may qualify the assistance either on the basis of the national objective addressed by the displacing activity or on the basis that the recipients of the relocation assistance are low- and moderate-income persons.
3. In any case where the activity undertaken for the purpose of creating or retaining jobs is a public improvement and the area served is primarily residential, the activity must meet the requirements of paragraph (a)(1) of this section as well as those of paragraph (a)(4) of this section in order to qualify as benefiting low- and moderate-income persons.
4. CDBG funds expended for planning and administrative costs under 570.205 and 570.206 will be considered to address the national objectives.
5. Where the grantee has elected to prepare an area revitalization strategy pursuant to the authority of 91.215(e) of this title and HUD has approved the strategy, the grantee may also elect the following options:

i. Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and,

ii. All housing activities in the area for which, pursuant to the strategy, CDBG assistance is obligated during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

6. Where CDBG-assisted activities are carried out by a Community Development Financial Institution whose charter limits its investment area to a primarily residential area consisting of at least 51 percent low- and moderate-income persons, the grantee may also elect the following options:

i. Activities carried out by the Community Development Financial Institution for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and

ii. All housing activities for which the Community Development Financial Institution obligates CDBG assistance during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

7. Where an activity meeting the criteria at 570.209(b)(2)(v) may also meet the requirements of either paragraph (d)(5)(i) or (d)(6)(i) of this section, the grantee may elect to qualify the activity under either the area benefit criteria at paragraph (a)(1)(vii) of this section or the job aggregation criteria at paragraph (a)(4)(vi)(D) of this section, but not both. Where an activity may meet the job aggregation criteria at both paragraph (a)(4)(vi)(D) and (E) of this section, the grantee may elect to qualify the activity under either criterion, but not both.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 60 FR 56912, Nov. 9, 1995]

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Appendix C

The State of Indiana has developed these standards to provide eligible participants of the Section 108 Loan Guarantee Program with a framework for financially underwriting and evaluating the eligibility of potential projects. The HUD Section 108 Loan Program requires that state or public entities conduct basic financial underwriting prior to approval of a Section 108 Loan. The State of Indiana Standards for Financial Underwriting will comply with the Federal Regulations for the use of Section 108 loan funds.

- 1) **Project Costs are reasonable:** All project costs will be carefully reviewed for reasonableness. A breakdown of all project costs will be required for the Section 108 loan application, supported by information including but not limited to: fair market price quotations, contractor/engineer estimates, and appraisals, all of which must be acceptable to lender. Third party price quotations are required to verify costs. Non-arms-length or in-house quotations will not be accepted.
 - a) Applicants will provide a detailed Sources and Uses statement. Lender will make a determination on the reasonableness of each line item, including but not limited to the following:
 - i) For development costs, including but not limited to environmental fees, architectural/engineering fees, financing and application fees, Lender will make a determination regarding whether the costs are sufficiently detailed and supported by contracts or other documentation.
 - ii) For land/building acquisition, a determination will be made that the price is reasonable based upon the fair market value by a certified real estate appraiser acceptable to Lender.
 - iii) For construction, machinery, furniture, fixtures and equipment, costs will be reviewed based on estimates from third party contracts (architect, engineer, equipment supplier, installer, etc.)
 - iv) For working capital (if applicable), a comparison will be made on the amount of working capital requested as compared to industry averages, risk, historical needs of the business and the projected need. This will be accomplished by analyzing the financial statements, projections, operating cycle and financial ratios of borrower.
- 2) **All Sources of project financing are committed:** Lender will review the Sources in the Sources and Uses statement to determine in its sole discretion if sufficient sources of funds have been identified and are committed to the project, including but not limited to debt, subsidy, sponsor equity, outside equity. The terms and conditions of all other sources of funding, including but not limited to terms, covenants, recourse must be disclosed. Borrower must provide evidence satisfactory to lender that all other funding sources are committed under terms acceptable to lender, and that the participating financing parties have the financial capacity to provide the funds in a timely manner, as follows:
 - a) For debt, Borrower must provide a term letter (or letter of intent) with both the total commitment amount and the terms and conditions of the loan. Borrower must also provide a copy of the actual loan package that was submitted to the lender providing the term letter.
 - b) For subsidy, Borrower must provide letters of commitment that outline the level of commitment, any conditions to funding, precedents to closing and disbursement, and ongoing compliance requirements, including the compliance period.

- c) For sponsor equity, Borrower must provide evidence satisfactory to Lender that equity is available to commit to the project, including but not limited to personal or corporate financial statements.
- d) For outside equity, Borrower must provide evidence satisfactory to Lender that regarding the level of commitment, the terms and conditions of funding (if any), compliance/reporting period (if any), and capacity of equity provider to fund.

3) **Section 108 funds are not substituted for non-Federal funds:** The amounts and sources of funds will be reviewed to ensure that Section 108 loan funds are not being used to substantially reduce the amount of non-federal funding for the project. A project requesting Section 108 financing must demonstrate a financing gap with evidence satisfactory to Lender, based upon:

- a) **Unavailability of Capital:** The project can afford the cost of financing, but is unable to obtain the funds from private debt and/or equity sources. The gap may be a result of a lender's loan to value requirements or the inherent risk of the project or the industry. For example: a loan is provided for 70% of the project's cost, which leaves a 30% financing gap. The business may not have the cash to "bridge" the gap, or its cash flow would be seriously restricted, which could jeopardize the viability of the project. Borrower must provide evidence satisfactory to lender that it has explored other lending sources that have proven infeasible.
- b) **Cost of Capital.** The project cannot support the interest rate, the loan term, and/or the collateral requirements of other lenders. To analyze this gap, borrower must provide evidence satisfactory to lender that other lenders are unwilling to change their terms. An operating pro forma, including cash flow, needs to be reviewed, including sensitivity analysis demonstrating the impact of different rates, terms, and amortization periods.
- c) **Return on Equity Investment.** The project's financial returns are too low to justify the sponsor or third party investor to proceed with the project and/or the risks of the project outweigh the returns. Lender will review and adjust the rate of return on equity to industry standards and examine location risks to confirm the equity gap. The Section 108 loan rate and term will be designed to provide a return that is in line with similar projects.

4) **The Project is Financially Feasible:** The project will be examined to determine its viability and assure that the public benefit anticipated from the Section 108 loan will be realized.

- a) Lender will evaluate current and historic financial statements of both the project sponsor and principals to evaluate completion risk based on sponsor financial capacity. Lender will examine income and expense statements for the proposed tenants relative to industry averages and prudent practice. Lender will also review project costs for reasonableness and feasibility. Finally, lender will analyze past, current, and projected financial data to determine if the job estimates are reasonable and can be supported. Labor costs shall be checked against industry averages.
- b) The terms and conditions of the Section 108 loan must be appropriate. The interest rate should be set at a rate where available cash flow is able to meet debt obligations with enough remaining cash flow to operate successfully. The loan term will be based on the asset being financed. The term will not exceed the economic life of the asset being financed or twenty (20) years as established by the Section 108 Program Guidelines. A longer loan amortization schedule may be justified with the loan due at the end of the economic life of the asset. Each loan will include a written explanation of this appropriate analysis and the reason for recommending the loan terms and conditions.

- 5) **The Return on Equity Investment is Reasonable:** The Section 108 loan application will be reviewed to determine if the return on investment to the developer and operating business is reasonable. Lender will confirm, in its sole discretion that the amount of cash that the investor/owner of each party is projected to receive, in relation to their initial equity, will not unduly enrich any party. However, lender will also evaluate whether the return on investment is too low, which could cause the investor/owner to lose motivation and not follow through with the project.
- a) Lender will review projected revenues, expenses (including owners' and officer's salaries for the developer and the operating business), developer fees, debt service and net operating income, relative to industry averages.
 - b) A review of the business' and personal obligations will be made to determine what return on equity investment is necessary to meet personal and business obligations. If the return on investment is above the industry averages, adjusted for risk and local conditions, lender will adjust the Section 108 loan terms or reduce owners'/officers' salaries and/or draws. If the return on investment is below the industry average, the loan terms may be adjusting to bring it closer to the industry average.
- 6) **The Section 108 Loan Funds will be Disbursed on a Proportional Basis:** To the extent practicable, the Section 108 loan funds should be disbursed on a pro rata basis with other funding sources to avoid placing the Section 108 Loan funds at a greater risk than other funding sources, since the Section 108 funds would be spent before the other funding sources are used.
- a) Lender will review construction cash flow statements and Sources and Uses statements to confirm that Section 108 loan funds will be expended at the same ratio as other funding sources.
 - b) Lender will also review other funding sources' policies on the expenditure of funds. If these policies require the public funds to be disbursed first, lender reserves the right to negotiate with other lenders, equity providers and subsidy providers to attempt to modify these policies. If Section 108 funds must still be expended first, lender reserves the right to require safeguards such as performance or completion bonds.
- 7) **The Public Benefit Will be Achieved:** Lender will review each project to confirm that the minimum required level of public benefit will be realized for the expenditure of Section 108 loan funds, as follows:
- a) For each \$20,000 of Section 108 loan funds, at least one full-time equivalent (FTE) job must be created.
 - i) Lender will review historical financial statements of the operating business with regard to labor costs as a percentage of revenue. Lender will compare percentage of projected labor costs to project revenue to confirm feasibility of job creation estimates. Lender will also evaluate labor costs relative to published averages for the market/industry.
 - b) Instead or in addition, the project will provide goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the area served by the business amounts to at least one low and moderate-income person per each \$350 of Section 108 loan funds.
 - c) In addition, all activities funded with Section 108 loan funds will be evaluated in accordance with the *Criteria for National Objectives* found in the HUD Guidelines under 24 CFR Sub-Part C, 570.208. These criteria include:
 - i) Activities benefitting low- and moderate-income persons.
 - ii) Activities which aid in the prevention or elimination of slums or blights, or

- iii) Activities designed to meet community development needs having a particular urgency.
- d) All proposed Section 108 activities must meet one of these three (3) National Objectives. Traditionally, economic development activities must create or retain jobs for low- and moderate-income persons, but other types of Section 108 loans must also meet an objective such as undertaking an activity that benefits located in a predominantly low- and moderate income persons.
- 8) **The Project Is Feasible:** In addition to the financial feasibility of a project, an analysis will also be made on the feasibility of the development. The Section 108 loan application must be supported with additional documentation including but not limited to market studies, real estate appraisals, housing demand studies, or feasibility studies. All such documentation must be prepared by a third party source which has the qualifications to perform the study.
 - a) Where revenue sources are not produced by the project, lender will review engineering and other types of feasibility studies to properly evaluate the project.
- 9) **The Site and Location Are Suitable:** Lender will also evaluate the project site and location, as follows:
 - a) The neighborhood where the project is located should show signs of stability with strong and continuous growth patterns.
 - i) In the case of a redevelopment area, the proposed redevelopment area plan must be sufficiently designed and funded to achieve the anticipated outcomes.
 - b) The project's structural and environmental conditions are satisfactory to lender in its sole discretion, as demonstrated by third party studies and reports including but not limited to:
 - i) Property appraisal
 - ii) Phase I Environmental Site Assessment,
 - iii) Property condition assessment
 - (1) If necessary, an operations and maintenance program for removal of asbestos, lead-based paint, radon, PCB's, other toxic waste, and the removal of underground storage tanks.
 - c) The project must have appropriate and adequate zoning.
 - i) A statement from the community zoning officer must state that the proposed use of the site is classified as either a legal conforming or a legal non-conforming use under local zoning requirements.
 - d) Proof of ownership and proper title to the property must be evident.
 - e) Borrower must provide a survey of the property from a licensed land surveyor that includes, at a minimum, metes and bounds, a written legal description, easements, encumbrances, rights-of-way, physical features, and utility lines, all in form and content satisfactory to lender.
- 10) **The Development Team Has the Capacity and Capability to Undertake the Project:** To confirm this, lender will evaluate information provided by borrower in a form acceptable to lender, including but not limited to:
 - a) Roles and responsibilities of each team member;
 - b) Experience with similar types of developments; and
 - c) Qualifications and background of each team member.
- 11) **The Project Meets the Eligibility Criteria:** Lender will evaluate the project in accordance with HUD guidelines found in 24 CFR Sub-Part M, 570.703 *Eligible Activities*. The project must be eligible under one or more of these thirteen (13) listed activities of the HUD Guidelines for Section 108 loan guarantees.

- 12) **The Loan Will Be Repaid:** All Section 108 loans must be repaid. If the proposed activities have insufficient cash flow to repay the loan, other sources of funds will be evaluated to determine the capacity to repay the loan.
- a) For economic development loans, cash flow must be sufficient to meet debt service. The goal for the cash flow coverage ratio or debt coverage ratio should be 1.15. Additional sources of cash flow will be required for a business that has a cash flow coverage ratio of less than 1.1, including a cash reserve account for debt service from the owner or an investor, and a cash equivalent resource, such as a certificate of deposit.
 - b) For community development type loans, lender will review and evaluate other sources of funds for repayment including but not limited to:
 - i) Increase in property taxes to provide for tax increment financing as a repayment source
 - ii) Revenues derived from the project, including but not limited to lease payments, rental payments, or parking revenue; and
 - iii) User fees such as water or sewer fees
 - c) **Borrower and Key principals must have sufficient capacity:** The borrower of the Section 108 loan may be a public entity, a designated public agency, a non-profit corporation, or a private single purpose entity. Lender will evaluate borrower's capacity and capability.
 - i) In the case of a private single purpose entity, allowable ownership may be individual(s), general or limited partnerships, corporations, and limited liability companies.
 - ii) The borrower must be creditworthy and support that with accountant prepared financial statements. This includes both private and public entities.
 - iii) In the event the borrower is not an individual, the key principals of the borrower must be identified. A "key principal" is a person who is critical to the successful operation and management of the business. A review of the company's organizational documents will be made to determine the appropriate person(s) to designate as a key principal. A thorough credit review will be made for each key principal. Key principals must have financial capacity and relevant experience as demonstrated by resumes and financial statements. Credit checks and full background disclosure will be required on all individuals or entities owning or controlling twenty percent (20%) or greater interest in the company.
 - (1) Key principals will collectively have the obligation to guarantee one hundred percent (100%) of the loan's principal balance.
- 13) **Borrower and Key Principals must have sufficient financial strength:** The borrower's and key principal's overall financial strength, as well as their previous history of ownership and successful operation of a business will be considered. At a minimum, the following documentation must be provided:
- a) Credit reports for the borrower and key principals;
 - b) Verification of employment for individual borrowers;
 - c) Federal income tax returns for the two previous years for the borrower;
 - d) Bank statements for the borrower for the most recent three (3) months;
 - e) A current balance sheet identifying contingent liabilities for the borrower;
 - f) A current income and expense statement for the borrower;
 - g) A detailed schedule of other real estate holdings of the borrower;
 - h) Proof of ownership and loan statement which describes any bankruptcy which occurred within the last seven (7) years and any pending or current litigation or judgments.

14) **Additional Affordable Multifamily Underwriting Guidelines:** The following are underwriting guidelines for all affordable housing Developments. However, all applicants should be aware that these are averages and the numbers submitted should reflect the nature and true cost of the Development proposed. Lender will consider any underwriting outside of these guidelines if supporting documentation is provided.

- a) Total Operating Expenses - Lender will consider the reasonableness of operating expenses for each Development based on information submitted by the Applicant. All Developments must be able to underwrite with a minimum operating expense of \$2,500 per unit per year (net of taxes and reserves).
- b) Management Fee– 5-7% of “effective gross income” (gross income for all units less Vacancy Rate).

# of Units	Maximum Management Fee Percentage
1 to 50 units	7%
51 to 100 units	6%
101 or more units	5%

- c) Vacancy Rate – 6% - 8%
- d) Rental Income Growth – 0-2%/year
- e) Operating Reserves – four (4) to six (6) months (Operating Expenses plus debt service) or \$1,500 per unit (whichever is greater)
- f) Replacement Reserve is required for all developments and must be included in the operating budget, but is not included as part of the operating reserve. Contributions must be made to the reserve account, starting at or before the conversion date of the construction loan to permanent loan and must be funded for the term of the loan. Replacement Reserve funds must only be used for Capital Improvements (substantial improvements to the real estate such as re-roofing, structural repairs, or major projects to replace or upgrade existing furnishings, but not including replacement of individual appliances or minor repairs) and must **not** be used for general maintenance expenses. Less restrictive provisions required by Lenders must be approved by lender. Replacement Reserves must escalate at a rate of 3% per year. lender will at its discretion, adjust the Replacement Reserve to reflect reasonable and customary capital and replacement expenditures.
 - i) The following minimum contributions must be used:
 - (1) Rehabilitation: \$350 per unit per year
 - (2) New Construction: \$250 per unit per year
 - (3) Single Family Units: \$420 per unit per year
 - (4) Historic Rehabilitation \$420 per unit per year
 - (a) For Rehabilitation developments, the capital needs assessment will also be reviewed in determining whether sufficient reserves have been established.
- g) Operating Expense Growth – 1-3%/year: lender requires operating expense growth to be at least 1% higher than rental income growth.
- h) Stabilized debt coverage ratio (stabilization usually occurs in year 2)¹:
 - i) Large and Small City Developments: 1.15 – 1.40
 - ii) Rural Developments: 1.15 – 1.50

¹ Although stabilization occurs usually in year two, the debt coverage ratio projection for a Development should not go below 1.1 during the complete 15 year Compliance Period to be considered financially feasible.

- (1) lender does recognize that rural deals will typically have higher debt coverage at the beginning of the compliance period in order to remain feasible over the fifteen years. Documentation to support these higher debt coverage ratios must be provided.
 - (2) Developments without hard debt are allowed but will be subject to additional scrutiny from lender. Developments submitted with no debt will not have a debt coverage ratio but will be required to have a cash flow without having an undue profit. This will be determined by a ratio of Effective Gross Income to Total Annual Expenses (including reserve for replacement). A ratio of 1.15 shall be the minimum required to be considered feasible by lender in Years 1-15. Tax abatement may cause the debt coverage ratio to be higher than these guidelines.
- iii) **Required Documentation:** 1) Documentation of estimated property taxes and insurance for the proposed Development (i.e. a statement of how the Applicant determined the estimated taxes and insurance for the Development); AND 2) If the underwriting is outside these guidelines, the Applicant must provide a written detailed explanation with third party documentation supporting the explanation (approval of underwriting from other financing institutions/funding sources will not constitute acceptable supporting documentation).
- i) **Developer Fee Limitations:**
- i) **New Construction:** Developer fees for new construction developments must be the lesser of total per unit amount listed below or \$1,200,000 (the maximum for developments with tax-exempt bonds is \$2,000,000):
 - (a) \$18,000 per unit for the first 15 units;
 - (b) \$13,500 per unit for the next 30 units;
 - (c) \$10,00 per unit for the for the next 30 units;
 - (d) \$6,000 per unit for any unit above 75.
 - ii) **Rehabilitation or qualified Community Impact Development:** Developer fees for rehabilitation and qualified Community Impact Development must be the lesser of total per unit amount listed below or \$1,200,000 (the maximum for developments with tax-exempt bonds is \$2,000,000).
 - (1) \$20,000 per unit for the first 15 units;
 - (2) \$15,000 per unit for the next 30 units;
 - (3) \$12,500 per unit for the for the next 30 units;
 - (4) \$6,000 per unit for any unit above 75.
- j) Lender will monitor both hard and soft costs of the Development compared to Developments of similar size and location and in its sole discretion reduce the total Developer Fee, which may reduce the amount of any RHTC allocation. NOTE: Consultant Fees will be considered part of the Developer Fee.
- i) **Required Documentation:** Applicant must include a statement 1) disclosing each entity/individual receiving a portion of the Development Fee along with the percentage of the fee the entity/individual will receive and 2) describing the terms of the deferred repayment obligation to the Development including any interest rate charged and the source of repayment with the application. Non-profit organizations shall include a resolution from the Board of Directors allowing such a deferred payment and interest obligation to the Development. The Lender will require a Deferred Development Fee Agreement, satisfactory to the Lender in its sole discretion evidencing the principal amount and terms of interest and repayment of any deferred repayment obligation be submitted at the time of final cost certification.

- k) **Contractor Fee Limitations:** Contractor fees ("Contractor Fees") shall also be limited, for purposes of determining the RHTC amount to be allocated, based on the amount of total costs incurred toward the construction or rehabilitation of the Development, excluding Developer and Contractor Fees. The Contractor Fee limitations are as follows:

Contractor Fees	Contractor Fee % Limitations
General Requirements	6% of Total Construction/Rehabilitation Cost
General Overhead	2% of Total Construction/Rehabilitation Cost
Builders Profit	6% of Total Construction/Rehabilitation Cost
Total	14% of Total Construction/Rehabilitation Cost

- i) The Lender will permit saving in a particular Contractor Fee line item to offset overruns in other Contractor Fee line items; provided, however, that in any event the total Contractor Fees shall not exceed 14%. No increase will be permitted higher than the above stated limitations.
- l) **Consultant Fee Limitations:** The total amount of all consulting and developer fees must be no more than the maximum developer fee allowed to the Development.
- m) **Reasonableness of Project Costs:** Any line item costs, square footage costs or total unit costs exceeding a range of reasonableness may be disallowed solely at the discretion of lender. Additional information and documentation (verified by lender and/or lender's designee) may be required to substantiate the reasonableness of the cost. Any allocation made will be determined using lender's assessment of cost.
- n) **Related Party Fees:** The Applicant, Owner, Developer, and Consultant must disclose all Related Party fees submitted within the initial application budget. Fees may include, but not limited to developer fee, consultant fee, architect fee, guaranty fee, owner's representative fee, broker fee, document review fee, supervision fee, syndicator fee, engineer fee, attorney fee, accountant fee, management fee, contractor fee, etc.

Appendix D

Section 108 Loan Repayment Schedule

Project Name: _____

Term of Loan: years _____

Mortgage Amount: \$ _____

Repayment Period (per year): ____

Principal Amount: \$ _____

Annual Payment: \$ _____

Interest Rate: _____ %

Number of Payments: _____

Payment #	Beginning Balance	Payment Amount	Interest	Principal	Ending Balance	Cumulative Interest
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						

Attach a listing of sources which will be used to repay the Section 108 Loan.

Appendix E

Section 108 Loan Guarantees Public Entity Certifications

In accordance with Section 108 of the Housing and Community Development Act of 1974, as amended, (the Act) and with 24 CFR 570.704(b) the public entity certifies that:

(i) It possesses the legal authority to submit the application for assistance under 24 CFR Part 570, Subpart M (Subpart M) and to use the guaranteed loan funds in accordance with the requirements of Subpart M.

(ii) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the public entity to submit the application and amendments thereto and all understandings and assurance contained therein, and directing and authorizing the person identified as the official representative of the public entity to act in connect with the application to provide such additional information as may be required.

(iii) Before submission of its application to HUD, the public entity has:

(A) Furnished citizens with information required by 570.704(a)(2)(i);

(B) Held at least one public hearing to obtain the views of citizens on community development and housing needs; and

(C) Prepared its application in accordance with 570.704(a)(1)(iv) and made the application available to the public.

(iv) It is following a detailed citizen participation plan that meets the requirements described in 570.704(a)(2).

(v) The public entity will affirmatively further fair housing, and the guaranteed loan funds will be administered in compliance with:

(A) Title VI of the Civil Rights Act of 1964 (42 U.S.C 2000d et seq.);

(B) The Fair Housing Act (42 U.S.C. 3601-3619).

(vi) It will comply with the requirements governing displacement, relocation, real property acquisition,

and the replacement of low- and moderate-income housing described in 570.606.

(vii) It will comply with the requirements of 570.200(c)(2) with regard to the use of special assessments to recover the capital costs of activities assisted with guaranteed loan funds.

(viii) It will comply with the other provisions of the Act and with other applicable laws.

Signature/Authorized

Official Date

Title

Appendix E

Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transaction

(1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:

(A) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(B) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

(C) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(D) Have not within a three year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Signature

Date

Name, Title of Developer

Appendix E

Certification of Efforts to Obtain Other Financing

The _____ hereby assures and certifies with respect to its application for a loan guarantee pursuant to Section 108 of the Housing & Community Development Act of 1974, as amended, that it has made efforts to obtain financing for the activities described herein without the use of such efforts for the term of the loan guarantee, and it cannot complete such financing consistent with the timely execution of the project without such guarantee.

Signature/Authorized Official

Date

Title

Appendix E

Section 108 Loan Guarantee Certification Regarding Drug Free Workplace Requirements

The certification set out below is a material representation upon which reliance is placed by the U.S. Department of Housing and Urban Development in awarding the loan guarantee assistance. If it is later determined that the Public Entity knowingly rendered a false certification, or otherwise violates the requirements of the Drug Free Workplace Act, the U.S. Department of Housing and Urban Development, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug Free Workplace Act.

Certification

- A. The public entity certifies that it will provide a drug-free workplace by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession use of a controlled substance is prohibited in the public entity's workplace and specifying the actions that will be taken against employees for violations of such prohibitions;
 2. Establishing a drug free awareness program to inform employees about:
 - a. The dangers of drug abuse in the workplace;
 - b. The public entity's policy of maintaining a drug free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 3. Making it a requirement that each employee to be engaged in the performance of the activities undertaken with the loan guarantee assistance be given a copy of the statement required by paragraph 1.;
 4. Notifying the employee in the statement required by paragraph 1. that, as a condition of employment under the loan guarantee, the employee will:
 - a. Abide by the terms of the statement and;
 - b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
 5. Notifying the agency in writing, within ten calendar days after receiving notice under paragraph 4.b. from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central for the receipt of such notice. Notice shall include the identification number(s) of each affected grants;
 6. Taking one of the following actions, within 30 calendar days of receiving notice under paragraph 4.b., with respect to any employee who is so convicted -
 - a. Taking appropriate personnel action against such an employee, up to an including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency;

7. Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs A.1. through A.6.
- B. The public entity shall insert in the space provided below the site(s) expected to be used for the performance of work under the assistance covered by the certification.

Place of Performance (includes street address, city, county, state, zip code for each site):

Check ____ if there are workplaces on file that are not identified here.

Signature

Date

Name, Title

Appendix E

Section 108 Loan Guarantees Statement Regarding Lobbying

THE UNDERSIGNED STATES, TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF, THAT:

If any funds have been paid or will be paid to any reason for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of the Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee loan, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

Name, Title

Appendix E

Section 108 Loan Guarantees Certification of Legal Authority to Pledge Grants

The public entity hereby certifies and assures with respect to its application for a loan guarantee pursuant to Section 108 of the Housing and Community Development Act of 1974, as amended, that it possesses the legal authority to make the pledge of grants required under 24 CFR 570.705(b)(2).

Signature

Date

Name, Title

**SECTION 108 LOAN GUARANTEE
State Certifications Related to
Nonentitlement Public Entities**

**U.S. Department of Housing
and Urban Development**
Office of Community Planning
and Development

**Pursuant to 24 CFR §570.704(b)(9), the SECTION 108 LOAN GUARANTEE
State Certifications Related to Nonentitlement Public Entities**

State of _____, with regard to the Section 108 Loan
guarantee application submitted by the _____
(Nonentitlement Public Entity), certifies that:

- i. It agrees to make the pledge of grants required under 24 CFR §570.705(b)(2).
- ii. It possesses the legal authority to make such pledge.
- iii. At least 70 percent of the aggregate use of the CDBG grant funds received by the State, guaranteed loan funds, and program income during the one, two, or three consecutive years specified by the State for its CDBG program will be for activities that benefit low and moderate income persons.
- iv. It agrees to assume the responsibilities described in 24 CFR §570.710.

Signature

Name

Title

Date (mm/dd/yyyy)

Appendix F

A RESOLUTION OF THE (GOVERNING BODY) OF (PUBLIC ENTITY) APPROVING THE SUBMISSION OF AN APPLICATION FOR A SECTION 108 LOAN GUARANTEE

WHEREAS, the State of Indiana has developed a program for the use of Section 108 Loan Guarantee funds in accordance with federal Regulations; and

WHEREAS, public entities may apply for Section 108 Loan Guarantee funds through the State of Indiana; and

WHEREAS, the State of Indiana will guarantee the repayment of the Section 108 Loan from its CDBG funds; and

WHEREAS, under the Section 108 Loan Guidelines, funds must be used for eligible activities which benefit low-and-moderate income persons or prevent or eliminate Slum and/or Blight; and

WHEREAS, the (Public Entity) has held public hearings to receive input on the proposed use of Section 108 Loan funds; and

WHEREAS, the (Governing Body) desires to assist in the development of (name of project & Location); and

WHEREAS, the (Name of Project) will create new job opportunities which will primarily benefit low- and moderate-income persons in the (Public Entity).

NOW, THEREFORE, BE IT RESOLVED BY THE (GOVERNING BODY) OF (PUBLIC ENTITY), INDIANA, that it hereby approves the filing of this application for a Section 108 Loan Guarantee in the amount of _\$_____ for (Name of Project).

BE IT FURTHER RESOLVED THAT THE (CHIEF ELECTED OFFICIAL) is authorized to sign and is directed to file this application, including all assurances and certifications with the Indiana Office of Community and Rural Affairs.

BE IT FURTHER RESOLVED THAT THE (PUBLIC ENTITY) is aware of its obligation to guarantee the repayment of a Section 108 Loan from CDBG funds.

RESOLVED INTO A RESOLUTION THIS (DATE) DAY OF (MONTH), (YEAR).

ATTEST:

(Public Entity)

(Name & Title)

(Name & Title)

Appendix G

FIRST NOTICE PUBLIC HEARING ON THE USE OF SECTION 108 LOAN GUARANTEE FUNDS

Notice is hereby given by the (name of public entity), IN that it will conduct a Public Hearing on the use of Section 108 Loan Guarantee Loan funds under the CDBG rules & regulations of the Housing and Community Development Act of 1974, as amended.

Under Section 108 of the Act, non-federal entitlement communities may borrow funds utilizing the State's CDBG Program for the Loan Guarantee. The Commonwealth of Pennsylvania has developed its own Section 108 Guidelines to assist communities in obtaining Section 108 Loan funds to promote economic development. Section 108 Loan funds may be used for the following activities:

- _ Economic development activities eligible under CDBG;
- _ Acquisition of real property;
- _ Rehabilitation of publicly owned real property;
- _ Housing rehabilitation eligible under CDBG;
- _ Construction, reconstruction, or installation of public facilities (including streets, walks, and other site improvements);
- _ Related relocation, clearance, and site improvements;
- _ Payment of interest on the guaranteed loan and issuance costs of public offerings;
- _ Debt service reserves; and
- _ In limited circumstances, housing construction as part of community economic development, Housing Development Grant, or Nehemiah Housing Opportunity Grant programs.

The purpose of this public hearing is to obtain comments from citizens and interested firms and organizations on the community development, economic development and housing needs of the (name of public entity) that might be addressed with the use of Section 108 Loan funds. The financing, security, loan terms, and compliance with federal requirements will be discussed at the public hearing. The Public Hearing will be conducted at:

Location:

Address:

Time:

Date:

All interested persons, organizations and potential developers are encouraged to attend this Public Hearing. The (Location of Public Hearing) is fully accessible to the physically challenged, (If the location is not handicapped accessible, the public entity must state that it will make special arrangements and reasonable accommodations for all persons to attend the public hearing.)

Appendix G

SECOND NOTICE PUBLIC HEARING ON THE USE OF SECTION 108 LOAN GUARANTEE FUNDS

Notice is hereby given by the (name of public entity), IN that it will conduct a Public Hearing on the use of Section 108 Loan Guarantee Loan funds. The (name of public entity) has received a request for a Section 108 Loan Guarantee from (name of development entity) and an application has been prepared for Section 108 Loan funds for (name of project). The project involves _____(description of project)_____. The Section 108 Loan funds will be used for (use of funds). The total project cost is estimated to be \$(amount). Other sources of funds include the following:

\$ (amount) (source)

\$ (amount) (source)

\$ (amount) (source)

The use of the Section 108 Loan is eligible under the CDBG Regulations in that the proposed project will benefit low- and moderate-income persons by _____(description)_____. The Public Hearing will be conducted at:

Location:

Address:

Time:

Date:

A copy of the Proposed Section 108 Application is on display at (location) and may be examined by the public between the hours of _____ AM to _____ PM, Monday through (day).

All interested persons, organizations, firms and others are encouraged to attend this Public Hearing. The (location of Public Hearing) is fully accessible to the physically challenged. (If the location is not handicapped accessible, the public entity must state that it will make special arrangements and reasonable accommodations for all persons to attend the public hearing.)